



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7
11201 RENNER BLVD
LENEXA, KS 66219

MEMORANDUM

SUBJECT: Recusal Statement

FROM: Meghan A. McCollister
Regional Administrator

TO: Michael S. Regan
Administrator

I have previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating in certain matters in which I have a financial interest or a former business relationship.

FINANCIAL CONFLICTS OF INTEREST

As required by the criminal conflict of interest law, 18 U.S.C. § 208(a), I will not participate personally and substantially¹ in any particular matter² that will have a direct and predictable effect on my financial interests or the financial interests of a person whose interests are imputed to me unless I first obtain a written conflict of interest waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). The interests of the following persons are imputed to me: my spouse or my minor child; a general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization

¹ To participate “*personally*” means to participate directly. It includes the direct and active supervision of the participation of a subordinate in the matter. To participate “*substantially*” means that the employee's involvement is of significance to the matter. Participation may be substantial even though it is not determinative of the outcome of a particular matter. However, it requires more than official responsibility, knowledge, perfunctory involvement, or involvement on an administrative or peripheral issue. A finding of substantiality should be based not only on the effort devoted to the matter, but also on the importance of the effort. While a series of peripheral involvements may be insubstantial, the single act of approving or participating in a critical step may be substantial. Personal and substantial participation may occur when, for example, an employee participates through decision, approval, disapproval, recommendation, investigation or the rendering of advice in a particular matter. See 5 Code of Federal Regulations (C.F.R.) § 2640.103(a)(2).

² A “*particular matter*” includes only matters that involve deliberation, decision, or action that is focused upon the interests of specific persons, or a discrete and identifiable class of persons. The term may include matters which do not involve formal parties and may extend to legislation or policy making that is narrowly focused on the interests of a discrete and identifiable class of persons. It does not, however, cover consideration or adoption of broad policy options directed to the interests of a large and diverse group of persons. See 5 Code of Federal Regulations (C.F.R.) § 2640.103(a)(1).

with which I am negotiating or have an arrangement concerning prospective employment.

Particular matters involving specific parties³:

Given the value of my financial interests, I must disqualify from participating personally and substantially in any particular matter that affects the financial interests of **Apple, Cerner Corporation, and Berkshire Hathaway and its wholly-owned subsidiaries** as a specific party or a non-party competitor.

Particular Matters of General Applicability⁴

Based on the value of my current financial interests, I am disqualified from participating personally and substantially in any particular matter of general applicability affecting the financial interests of companies in the following industry sectors:

- Building Materials/construction
- Computer technology/media content & entertainment
- Energy/oil & gas, utilities, renewable, power transmission
- Healthcare/health information technology services & equipment
- Industrial equipment manufacturing
- Leisure equipment/motorcycles
- Packaged food/fast food
- Railroads
- Specialty chemicals/coatings
- Water treatment technology solutions and equipment

Divestiture

In order to avoid an actual or potential conflict of interest with the performance of my official duties, I will divest my individual and joint shares of **Berkshire Hathaway**. OGC/Ethics has determined that divestiture is reasonably necessary to avoid a potential conflict of interest. Once the divestiture is complete, I will update my recusal statement.

OBLIGATIONS UNDER EXECUTIVE ORDER 13989

Pursuant to Section 1, Paragraph 2 of the Executive Order, I understand that I am prohibited from participating in any particular matter involving specific parties in which my former clients – **the Midland Group, Powerful Performance Solutions, LLC, and the Hon. Ann Mesle** -- is a party or represents a party. For the purposes of the Executive Order, I had no

³ *Particular matter involving specific parties* includes any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties. The term typically involves a specific proceeding affecting the legal rights of the parties, or an isolatable transaction or related set of transactions between identified parties. *See* 5 C.F.R. § 2640.102(l).

⁴ *Particular matter of general applicability* means a particular matter that is focused on the interests of a discrete and identifiable class of persons, but does not involve specific parties. *See* 5 C.F.R. § 2640.102(m).

other “former clients” to whom I provided consulting services while self-employed as a consultant, and my consultancy is in abeyance and not taking on any new clients. I understand that my recusals regarding will last for two years from the date that I joined federal service and will end after **December 12, 2023**.

For the purposes of this pledge obligation, the term “particular matters involving specific parties” is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term “open to all interested parties” means that the meeting should include a multiplicity of parties. If, for example, there is “a meeting with five or more stakeholders regarding a given policy or piece of legislation, [then I] could attend such a meeting even if one of the stakeholders is a former employer or former client.”⁵ Should a question arise as to whether a specific forum qualifies as “open to all interested parties,” then I will consult with OGC/Ethics.

IMPARTIALITY REGULATIONS

In addition to my pledge restrictions, I note that, pursuant to the impartiality ethics regulations at 5 C.F.R. § 2635.502, I am also obliged not to participate personally and substantially in a particular matter involving specific parties in which my spouse’s employer, **the Midland Group** or any of its clients, is a party or representing a party.

DIRECTIVE AND CONCLUSION

In order to ensure that I do not participate in particular matters from which I am recused, I am asking the Deputy Regional Administrator to act on such matters without my knowledge or involvement. Therefore, please do not send or copy me on substantive emails, request that I attend meetings, or participate in any discussions, make recommendations, or otherwise make decisions with regard to a particular matter covered by my recusal. Official actions on such matters should be made without my recommendation, knowledge, or involvement. Any inquiries regarding the extent of my recusals should be directed to the Regional Counsel or OGC/Ethics.

In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties. In the event of any changes to my circumstances, I will provide a copy of the revised recusal statement to you and OGC/Ethics.

cc: Dan Utech, Chief of Staff
Edward H. Chu, Deputy Regional Administrator
Leslie Humphrey, Regional Counsel
Karina Borromeo, Assistant Deputy Ethics Official
Justina Fugh, Director, Ethics Office, EPA Headquarters

⁵ See OGE Advisory DO-09-011 (3/26/09).